

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

SHEILA SCAMMAN, Individually and as Parent, Legal Guardian and Next Friend of T.A. a/k/a T.C., a minor,

Plaintiff,

vs.

UNITED STATES OF AMERICA; and HILLCREST HEALTHCARE SYSTEM, et al.,

Defendants.

Case No. 09-CV-497-FHM

OPINION AND ORDER

The United States of America's Motion to Dismiss for Lack of Subject Matter Jurisdiction and for Plaintiff's Failure to Exhaust Administrative Remedies [Dkt. 22] is GRANTED.

Plaintiff concedes that she failed to exhaust administrative remedies and that the case was filed prematurely under 28 U.S.C. § 2675(a) and *McNeil v. United States*, 508 U.S. 106, 111, 113 S.Ct. 1980, 1983, 124 L.Ed.2d 21 (1993). [Dkt. 23, p. 3]. Plaintiff therefore requests that the court dismiss the case without prejudice to refiling.

This action is therefore DISMISSED without prejudice to refiling.

SO ORDERED this 16th day of November, 2009.


FRANK H. McCARTHY
UNITED STATES MAGISTRATE JUDGE